

1 **FEDERAL ELECTION COMMISSION**
2
3 **FIRST GENERAL COUNSEL’S REPORT**
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5 **MUR: 6947**
6 **DATE COMPLAINT FILED:** June 30, 2015
7 **DATE OF NOTIFICATION:** July 8, 2015
8 **LAST RESPONSE RECEIVED:** August 31, 2015
9 **DATE OF ACTIVATION:** September 22, 2015

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11 **ELECTION CYCLE:** 2016
12 **EXPIRATION OF SOL:** Earliest: May 4, 2020
13 Latest: June 2020

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15 **COMPLAINANT:** American Democracy Legal Fund
16
17 **RESPONDENTS:** Dr. Benjamin S. Carson, Sr.
18 Carson America, Inc. and Logan D. Delaney
19 in his official capacity as treasurer
20 Doug Watts
21 One Vote and Chris Marston
22 in his official capacity as treasurer
23
24 **RELEVANT STATUTES** 52 U.S.C. § 30125(e)
25 **AND REGULATIONS:** 11 C.F.R. § 300.61
26
27 **INTERNAL REPORTS CHECKED:** Disclosure Reports
28
29 **FEDERAL AGENCIES CHECKED:** None

30 **I. INTRODUCTION**
31

32 The Complaint in this matter alleges that 2016 Presidential candidate Dr. Benjamin S.
33 Carson, Sr.; his authorized campaign committee, Carson America, Inc. and Logan D. Delaney in
34 his official capacity as treasurer (“Carson America”); and Carson’s Director of Communications,
35 Doug Watts (collectively “Carson Respondents”), violated the Federal Election Campaign Act of
36 1971, as amended (the “Act”), by soliciting or directing funds beyond the limits and source
37 prohibitions of the Act.¹ Specifically, the Complaint, relying on purported statements by Watts
38 in a *Washington Post* article, alleges that Carson’s campaign sought to circumvent the Act’s

¹ See 52 U.S.C. § 30125(e)(1)(A).

1 contribution limits and prohibitions by directing Carson's contributors to "make their excess
2 contributions" to the super PAC One Vote because it was the "unofficially sanctioned" super
3 PAC of the Carson campaign.² In a joint response, which includes a signed declaration by
4 Watts, the Carson Respondents deny the allegations and assert that the purported statements by
5 Watts on which the Complaint relies are inaccurate.³

6 We recommend that the Commission find no reason to believe that Dr. Benjamin S.
7 Carson, Sr., Carson America, Inc. and Logan D. Delaney in his official capacity as treasurer, and
8 Doug Watts violated 52 U.S.C. § 30125(e) by soliciting excessive or prohibited contributions to
9 One Vote on behalf of Carson. Accordingly, we also recommend that the Commission find no
10 reason to believe that One Vote and Chris Marston in his official capacity as treasurer violated
11 the Act in connection with the allegations in the Complaint.

12 II. FACTUAL AND LEGAL ANALYSIS

13 A. Facts

14 Dr. Benjamin S. Carson, Sr. was a candidate for the Republican Party's presidential
15 nomination in the 2016 election. Carson announced his candidacy on May 4, 2015, and on the
16 same day, his authorized committee, Carson America, Inc., filed its Statement of Organization.⁴
17 Doug Watts served as Communications Director for the Carson campaign until December 31,
18 2015.

² Compl. at 2.

³ See generally Resp.; Resp. at 5-6. One Vote did not submit a response to the Complaint.

⁴ Carson America, Inc., FEC Form 1 Statement of Organization (May 4, 2015).

1 One Vote is an independent-expenditure-only committee that supported Carson's
2 candidacy; it filed its Statement of Organization with the Commission on March 17, 2015.⁵

3 On June 5, 2015, the *Washington Post* published an article discussing "turmoil" within
4 Carson's campaign, including that "[t]wo independent super PACs designed to help Carson are
5 instead competing directly with Carson's campaign for donations and volunteers."⁶ The two
6 "super PACs" referred to in the article are Run Ben Run and One Vote.⁷ The article included
7 purported statements by Watts (who was identified as a "Carson campaign spokesman") that the
8 campaign's "'unofficially sanctioned' super PAC is One Vote and that Carson invites supporters
9 to 'make their excess contributions' to that group."⁸

10 **B. Analysis**

11 The Act prohibits federal candidates, federal officeholders, their agents and entities
12 directly and indirectly established, financed, maintained, or controlled by the candidate from
13 soliciting, receiving, directing, transferring, or spending funds in connection with any federal
14 election activity unless the funds are subject to the limitations, prohibitions and reporting
15 requirements of the Act.⁹ The Complaint alleges, based on the statements reportedly made by
16 Watts to the *Washington Post*, that "Dr. Carson, or Mr. Watts acting as his agent, has engaged in

⁵ One Vote, FEC Form 1 Statement of Organization (Mar. 17, 2015). As an independent-expenditure-only committee (also referred to as a "super PAC"), One Vote may accept corporate contributions and contributions in unlimited amounts.

⁶ Resp., Exh. A, Robert Costa & Philip Rucker, *Ben Carson's campaign faces turmoil amid staff exits and super PAC rivalry*, WASH. POST, June 5, 2015.

⁷ *Id.*

⁸ *Id.*

⁹ 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

1 explicit solicitation of funds in excess of the limits and/or source restrictions of the Act for the
2 Carson-affiliated super PAC, One Vote.”¹⁰

3 Respondents deny the allegations and provide a signed declaration from Watts to
4 specifically rebut the Complaint’s factual assertions.¹¹ In his declaration, Watts concedes that
5 one or two days prior to the article being published, he was interviewed by two *Washington Post*
6 reporters and discussed various aspects of Carson America and the legal parameters of how an
7 independent-expenditure only committee operates independently of a candidate’s campaign.¹²
8 Watts asserts, however, that the scope of the interview primarily focused on “generic questions
9 regarding the operations of independent expenditure only committees (IEOC).”¹³ He explicitly
10 denies making the reported statements at issue regarding One Vote’s relationship with the
11 Carson campaign.¹⁴

12 Specifically, Watts declares that, “At no time during the interview or subsequent to the
13 interview, did I state to either [reporter] that O[ne] V[ote] was the ‘unofficially sanctioned’
14 ‘super PAC’ of the Committee. During our discussions the references to O[ne] V[ote] and R[un]
15 B[en] R[un] were inserted as examples of how an IEOC operates. I did not state that there was a
16 ‘sanctioned’ or ‘approved’ IEOC related to the Committee.”¹⁵ Watts further declares that, “at no

¹⁰ Compl. at 2-3.

¹¹ Resp. at 5-6; Exh. B, Doug Watts Decl. (Aug. 21, 2015). The Response alternatively contends that, even if the facts alleged in the Complaint were true, the Complaint does not provide a sufficient factual or legal basis upon which to conclude that Carson, Watts, or Carson America violated 52 U.S.C. § 30125(e)(1)(A) by soliciting contributions on behalf of One Vote from prohibited sources and in amounts that exceed the Act’s contribution limits. Resp. at 4-5, 6-7.

¹² Watts Decl. ¶¶ 3, 9.

¹³ *Id.* at ¶ 4.

¹⁴ *Id.* at ¶ 11, 12.

¹⁵ *Id.* at ¶ 11.

1 time during the interview or subsequent to the interview did I state that ... 'Carson invites
2 supporters to make their excess contributions' to R[un] B[en] R[un], O[ne V[ote] or any other
3 IEOC. My only comments related to that issue were that an IEOC often times solicits those
4 persons who have already made the maximum contributions to a candidate to provide them an
5 additional opportunity to make a contributions that will support the candidate of their choice.
6 Once again, my comments were of a generic nature in order to educate [the reporters] as to the
7 perceived benefits of an IEOC."¹⁶

8 The available information does not appear to establish that Dr. Carson or Carson America
9 has any affiliation or relationship with One Vote, made solicitations on its behalf, directed any
10 funds to, or received funds from One Vote. The Complaint's allegation that the Carson
11 campaign impermissibly solicited excessive and prohibited funds rests exclusively on Watts' purported
12 statements in the *Washington Post* that the campaign's "'unofficially sanctioned' super PAC is
13 One Vote and that Carson invites supporters to 'make their excess contributions' to that
14 group."¹⁷ Watts, however, specifically denies making each of those statements as written, and
15 provides a detailed description of his conversation with the newspaper reporters and a credible
16 explanation of how he was either misunderstood or misquoted.¹⁸ Watts explains that it was the
17 reporters who raised the example of One Vote during a general conversation about super PACs
18 and declares that "since they raised the issue of O[ne] V[ote] as an example, I referenced O[ne]
19 V[ote] in my response to explain the fact that a benefit of an IEOC is that contributors who have

¹⁶ *Id.* at ¶ 12.

¹⁷ Resp., Exh. A.

¹⁸ Unlike some of the other statements attributed to Watts in the article, the statements relied on by the Complaint are not fully quoted – the only portions contained in quotes are the phrases "unofficially sanctioned" and "make their excess contributions." Thus, the author's statement clearly contained at least some interpretation/paraphrasing.

1 made the maximum contribution to a candidate's campaign, often turn to an IEOC as a means to
2 make contributions to an entity that publicly supports a specific candidate.”¹⁹

3 Because of the limited nature of the information on which the allegations are based, and
4 Respondents' direct, specific, and credible refutation of that information, the available
5 information does not provide adequate support for reason to believe finding that Dr. Carson or
6 Carson America has any affiliation or relationship with One Vote, made solicitations on its
7 behalf, directed any funds to, or received funds from One Vote.²⁰ Accordingly, we recommend
8 that the Commission find no reason to believe that Dr. Benjamin S. Carson, Sr., Carson America,
9 Inc. and Logan D. Delaney in his official capacity as treasurer, and Doug Watts violated 52
10 U.S.C. § 30125(e) by soliciting excessive or prohibited contributions to One Vote on behalf of
11 Carson. We further recommend that the Commission find no reason to believe that One Vote
12 and Chris Marston in his official capacity as treasurer violated the Act in connection with the
13 allegations in this matter.

¹⁹ Watts Decl. ¶ 10.

²⁰ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007) (no reason to believe finding appropriate when the available information fails to give rise to a reasonable inference that a violation has occurred); Statement of Reasons, Comm'rs. Mason, Sandstrom, Thomas & Smith at 1-2, MUR 4960 (Hillary Clinton for U.S. Senate Exploratory Committee) (“SOR”) (in explaining its no reason to believe finding, the Commission stated, “while credibility will not be weighed in favor of the complainant or the respondent, a complaint may be dismissed if it consists of factual allegations that are refuted with sufficiently compelling evidence provided in the response to the complaint”).

III. RECOMMENDATIONS:

1. Find no reason to believe that Dr. Benjamin S. Carson, Sr., Carson America, Inc. and Logan D. Delaney in his official capacity as treasurer, and Doug Watts, violated 52 U.S.C. § 30125(e);
2. Find no reason to believe that One Vote and Chris Marston in his official capacity as treasurer, violated of the Act in connection with the allegations in the Complaint;
3. Approve the attached Factual and Legal Analysis;
4. Approve the appropriate letters; and
5. Close the file.

Lisa J. Stevenson
Acting General Counsel

12/6/17
Date

Kathleen M. Guith
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Camilla Jackson Jones
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Attachment:
Factual and Legal Analysis